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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Amendment of Part 90 of)
the Commission's Rules)
to Provide Timely)
Notice of Special Temporary)
Authority to Licensees and)
Frequency Coordinators)

RM- _____

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To: The Commission

PETITION FOR RULE MAKING
OF THE
INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.,
THE COUNCIL OF INDEPENDENT COMMUNICATION SUPPLIERS
AND
THE ALLIANCE OF PRIVATE 800/900 MHZ LICENSEES

The Industrial Telecommunications Association, Inc. ("ITA"), the Council of Independent Communication Suppliers ("CICS"), and the Alliance of Private 800/900 MHz Licensees ("APEL"), pursuant to Section 1.401 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby respectfully submit this Petition for Rule Making to amend the provisions pertaining to Special Temporary Authority ("STA") to provide for notice of STA's to the Commission's certified frequency coordinators.

I. PRELIMINARY STATEMENT

1. ITA, formerly the Special Industrial Radio Service Association, Inc. ("SIRSA"), is an association organized under the

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laws of the District of Columbia. ITA is the Commission's certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 421-430 MHz and 800/900 MHz frequency pools. ITA also coordinates channels from the 800 MHz General Category Pool for those entities: (a) eligible to become Industrial/Land Transportation licensees; (b) wishing to expand trunked systems; or (c) consolidating conventional systems into a trunked system. ITA coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated to the Special Industrial Radio Service and the enumerated 800/900 MHz frequency pools.

2. ITA enjoys the support of a membership that includes more than 8,600 licensed two-way land mobile radio communications users and the following trade associations:

- Alliance of Motion Picture and Television Producers
- American Mining Congress
- Associated Builders & Contractors, Inc.
- Florida Citrus Processors Association
- Florida Fruit & Vegetable Association
- National Aggregates Association
- National Agricultural Aviation Association
- National Food Processors Association
- National Propane Gas Association
- National Ready-Mixed Concrete Association
- National Utility Contractors Association
- New England Fuel Institute
- United States Telephone Association

3. CICS is an unincorporated association of entities engaged in serving the needs of private radio eligibles, particularly those

located in small and rural communities throughout the United States. CICS' membership is open to SMR operators, radio dealers, equipment suppliers, communications engineers and consultants. CICS was formed to provide these entities a voice in the policy-making process governing use of the electromagnetic spectrum, especially spectrum allocated to the Private Land Mobile Radio Services. CICS is an independent market council of ITA.

4. The Alliance of Private 800/900 MHz Licensees (APEL) is an independent membership market council of ITA. APEL was formed to provide an instrumentality through which licensees of private user trunked and conventional systems may coordinate efforts to sustain the viability of 800/900 MHz spectrum set aside for private, non-commercial radio systems. The membership of APEL consists of representatives from a number of Fortune 500 companies and other prominent corporations, including:

Airborne Express
All American Pipeline Company
Bell Communications Research
BellSouth Telecommunications
The Boeing Company
Exxon Communications Services Company
Ford Communications, Inc.
Kerr-McGee Corporation
Pacific Bell, and
Phillips Petroleum Company.

II. BACKGROUND

5. The petitioners find that, increasingly, licensees and users of private land mobile radio systems are relying on the

special temporary authority provisions of Section 90.145 to initiate operations essential to their business purposes. Most of the stations established or modified pursuant to special temporary authority fall outside of the frequency coordination requirements of Section 90.175 of the rules. To illustrate, the current rules governing special temporary authority, as modified in GN Docket No. 93-252, require evidence of frequency coordination only for stations that will operate for periods exceeding 180 days.¹

6. Notwithstanding the fact that many requests for special temporary authority do not require evidence of frequency coordination, the facilities authorized on a temporary basis may dramatically affect frequency management and assignment considerations. The petitioners believe that, for the frequency coordination process to function effectively, the entities responsible for performing coordinations must have knowledge of radio systems that the Commission has authorized pursuant to special temporary authority. Absent such knowledge, a frequency coordinator may recommend the use of a frequency for regular operations at a specific site that is in conflict with a temporary system approved by the Commission.

7. For this reason, the petitioners believe it is imperative

¹ See 47 C.F.R. § 90.145(c) (1994), modified by Commission action on August 9, 1994. *In re Implementation of Sections 3(n) and 332 of the Communications Act, Third Report and Order*, released September 23, 1994, 9 FCC Rcd. _____ (1994).

that the Commission's licensing staff provide prompt notice to the responsible frequency coordinator(s) when it approves operations pursuant to special temporary authority. Regardless of the duration of the temporary operations, the responsible coordinators should receive notice any time the Commission authorizes an entity to use specific frequencies in a manner that is not reflected in a formal FCC license. Accordingly, the petitioners propose, in this Petition for Rule Making, to amend the special temporary authority provisions of Section 90.145 to provide for appropriate notice of all STA's to the affected frequency coordinators.

8. Adoption of the rule change proposed in this Petition for Rule Making will benefit the frequency management process in another important respect. Having received notice from the FCC of operations authorized pursuant to Section 90.145, the frequency coordinators will be in a position to notify co-channel licensees that may be affected by the temporary operations. Under the present rules, the parties licensed to use specific frequencies or channels typically have no knowledge that the Commission has authorized temporary operations in their geographic area until the holder of the STA places its system in operation.

9. Assuming that the Commission does provide notice of STA's to the frequency coordinators, the coordinators will be able to alert co-channel users of the anticipated temporary use. In turn, the co-channel users may be in a better position to adjust its

usage patterns to accommodate the temporary operation. Alternatively, the co-channel users may have knowledge of factors, not considered by the FCC in the grant of the STA, that render the grant of the STA inappropriate or in conflict with existing operations. In such instances, the co-channel licensees will be able to bring these factors to the attention of both the responsible frequency coordinator and the Commission.

10. If the Commission agrees, upon consideration of the relevant factors, that the proposed temporary operations would be inappropriate, it would then be in a position to modify the temporary authorization before the STA holder has gone through the effort and expense of commencing actual operations. For a variety of reasons, therefore, the petitioners believe that the requested rule change will help to promote effective and responsible management of the private land mobile radio spectrum. Accordingly, the petitioners urge the Commission to amend its rules as indicated in the attached Appendix.

III. CONCLUSION

11. The petitioners believe the proposed rule amendment will stimulate changes, both tangible and intangible, that will benefit the future use and management of the private land mobile radio frequencies. At a time when the private land mobile radio spectrum faces continually increasing congestion, the proposed change will

help to ensure more effective frequency coordination and more efficient use of the available spectrum.

WHEREFORE, THE PREMISES CONSIDERED, the Industrial Telecommunications Association, Inc., the Council of Independent Communication Suppliers and the Alliance of Private 800/900 MHz Licensees respectfully submit this Petition for Rule Making and urge the Federal Communications Commission to proceed to place the Petition for Rule Making on Public Notice in accordance with Section 1.403 of the Commission's Rules and Regulations.

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ASSOCIATION, INC.**

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Date: March 15, 1995

Appendix: Text of Proposed Rule Changes

APPENDIX

It is requested that the Federal Communications Commission amend Part 90 of its Rules and Regulations as shown:

I. Section 90.145 is amended by adding a new subsection (f) to read as follows:

§ 90.145 Special Temporary Authority.

* * * * *

(f) In the case of all requests for special temporary authority granted by the Commission under Part 90, regardless of whether evidence of frequency coordination was required pursuant to subsection (c) above, the Commission shall provide notice of such grant to the entity or entities having frequency coordination responsibility for the specific frequencies involved in the special temporary authority.